

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KATHRYN TOWNSEND GRIFFIN, HELEN
MCDONALD, and THE ESTATE OF CHERRIGALE
TOWNSEND,

Plaintiffs,

-against-

EDWARD CHRISTOPHER SHEERAN, p/k/a ED
SHEERAN, ATLANTIC RECORDING
CORPORATION, d/b/a ATLANTIC RECORDS,
SONY/ATV MUSIC PUBLISHING, LLC, and
WARNER MUSIC GROUP CORPORATION, d/b/a
ASYLUM RECORDS

Defendants.

ECF CASE

17-cv-5221 (RJS)

**DECLARATION OF EDWARD
CHRISTOPHER SHEERAN**

I, Edward Christopher Sheeran, declare as follows:

1. I am a named defendant in this action. I have personal knowledge of, and am fully familiar with, the facts set forth in this Declaration, which I respectfully submit in further support of the Defendants' application for summary judgment.

2. Together with non-party Amy Wadge, I authored the musical composition titled *Thinking Out Loud*. Shortly after co-authoring *Thinking Out Loud*, I recorded what would become the commercially released version of the song. Jake Gosling composed and programmed the drums in the recording of *Thinking Out Loud*, as producer of the recording.

3. Although I am advised that this application for summary judgment purely addresses legal issues and whether the supposed similarities between *Thinking Out Loud* and *Let's Get It On* are actionable as a matter of law, because I understand that the Plaintiffs have told this Court that "[t]he defendants do not dispute that they copied Let's Get It On in Thinking Out Loud," I am submitting this declaration to respond to that assertion.

4. I did not copy *Let's Get It On*. I have never admitted that I copied *Let's Get It On*

because I did not copy it. I am advised that the Answer filed on my behalf in this lawsuit repeatedly and unequivocally denies that I ever copied *Let's Get It On*. I am further advised that the very first paragraph of the Memorandum of Law filed on my behalf in support of this motion clearly “dispute[s] that any copying occurred.”

5. Plaintiffs also make much of the fact that I sang portions of *Let's Get It On* during a performance of *Thinking Out Loud* during the European leg of my 2014 tour, well after *Thinking Out Loud* was written and recorded.

6. I tour and perform extensively. *Thinking Out Loud* is one of the songs I frequently perform on tour. To keep my live performances of material fresh after performing my songs day after day, I often spontaneously “mash-up” songs that I have written with other popular songs that feature the same or similar chord progressions. During the 2014 European tour, I mashed up many of my songs – not only *Thinking Out Loud* – with other popular songs. For example, I mashed up a song of mine called “Don’t” with a song by Chris Brown called “Loyal” and a song “No Diggity” by Blackstreet and “The Next Episode” by Dr. Dre. A video of one of my 2014 performances of this mashup is publicly available at this link: <https://www.youtube.com/watch?v=ZpiNUKpGI88>. These mashups are simply a creative way of playing songs together that share common chord progressions, and nothing more.

7. There are a limited number of chord progressions that are pleasing to the ear, and thus many songs in popular music share similar chord progressions. I mashed-up *Thinking Out Loud* and *Let's Get It On* because portions of *Thinking Out Loud* feature a similar, but not identical, chord progression to the commonly used chord progression used in *Let's Get It On*. There are probably countless mashups out there, as they are a popular way of entertaining live audiences. If someone could claim ownership of these common chord progressions and prevent any later writer

from using them, writers would not be able to continue to create new music on these basic building blocks.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: September 27 2018

A handwritten signature in black ink, appearing to read 'EC', followed by a long, horizontal, wavy line that extends to the right.

EDWARD CHRISTOPHER SHEERAN